



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
CARVEL STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE

Technical Information Memorandum 89-1

October 11, 1989

SUBJECT: Delaware Inheritance Tax Laws

Effective for the estates of the decedents dying on or after January 1, 1989, the Delaware General Assembly has made the following changes in the Delaware Inheritance Tax laws:

1. The automatic lien for inheritance taxes no longer applies to real estate passing to the surviving spouse, and an inheritance tax return is not required to be filed unless:
(a) the estate, excluding property owned as tenants by the entireties, exceeds \$250,000 or
(b) a Delaware inheritance tax is due.

However, an affidavit attesting that no inheritance tax is due is required to be filed with the Register of Wills in each county where the decedent owned real property, and a copy of the affidavit, with an attached death certificate, is to be filed with the Division of Revenue. The form of affidavit promulgated by the Division of Revenue is attached to this Memorandum.

The Division of Revenue will not accept for filing returns that are not required to be filed under the foregoing provisions.

2. The personal representative may petition the Secretary of Finance for the release of the lien against real property. One of the requirements for the granting of the release is the payment of the inheritance tax estimated to be due on inheritance of the property for which release of the lien is sought.

3. The exemption from inheritance tax for pension, profit sharing, and stock bonus plans has been clarified in that the references to the Internal Revenue Code have been changed. Plans that are described in sections 401(a), 403(a) or (b), and 408(a) or (b) of the Internal Revenue Code are exempt from the Delaware Inheritance Tax.

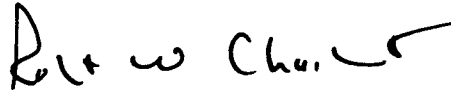
4. The deduction for previously taxed property has been repealed and in its place a credit against any inheritance tax due will be allowed. In order to obtain this credit, the property must have been received from a prior decedent within two years prior to the second decedent's death, and an inheritance tax must have been collected on the property.

This Memorandum will also serve as a reminder of frequently overlooked changes made in the Delaware Inheritance Tax Law for estates of decedents dying after June 30, 1985, and additional changes for decedents dying after January 1, 1987.

The 1985 law enacted a marital deduction for property passing to the surviving spouse, increased the Class B exemption to \$10,000, and exempted life insurance from taxation even when it is payable to the estate of the decedent.

The 1987 law further increased the Class B exemption to \$25,000 and the Class C exemption to \$5,000.

The 1987 law also changed stepchildren and their lineal descendants from Class D to Class B beneficiaries and included relatives by virtue of legal adoption in the definition of a Class C beneficiary.

A handwritten signature in black ink, appearing to read "Robert W. Chastant", with a stylized flourish at the end.

**Robert W. Chastant
Director of Revenue**

AFFIDAVIT TO THE REGISTER OF
WILLS THAT NO DELAWARE INHERITANCE
TAX RETURN IS REQUIRED

Rev. Code 002-02

FOR THE ESTATE OF _____ SOCIAL SECURITY NO _____

State of _____)
County of _____) SS

BE IT REMEMBERED, that on this _____ day of _____ A. D., 19____, personally appeared before me, a Notarial Officer of the State and County aforesaid, _____, Personal Representative(s)/Surviving Joint Tenant With Right of Survivorship (select one) of _____, known to me personally to be such, who being duly sworn according to law, did depose and say that:

1. I(we) am(are) the Personal Representative(s)/Surviving Joint Tenant With Right of Survivorship (select one) of _____ who died on _____ as evidenced by the attached certified copy of a death certificate.

2. The decedent owned the following real property located in Delaware:

3. The entire interest in the above-mentioned real property passes to _____, the surviving spouse, whose address is _____.

4. I(we) have read and understand the requirements for the filing of a State of Delaware Inheritance Tax Return as prescribed by Section 1341, Title 30, of the Delaware Code, and hereby declare that no such return is required to be filed on behalf of the above-named decedent.

IN WITNESS WHEREOF, I(we) have set my(our) hand(s) and seal(s) the day and year first above written.

_____(SEAL)

_____(SEAL)

SWORN AND SUBSCRIBED before me the day and year first above written.

NOTARIAL OFFICER

My Commission Expires:

INSTRUCTIONS FOR AFFIDAVIT THAT NO DELAWARE
INHERITANCE TAX RETURN IS REQUIRED

This form, together with a certified copy of the decedent's death certificate, must be filed in the Office of the Register of Wills in the county in which letters of administration may have been granted, as well as in any other county in Delaware in which the decedent owned real property, when the following conditions exist, where applicable:

1. The value of the gross estate passing to the husband or wife does not exceed \$250,000 not including property owned as tenants by the entirety or there is no Delaware Inheritance Tax due. There will be a tax due if the taxable share, column 4 of the computation schedule Form 600 exceeds \$70,000.

2. The value of the gross estate passing to a parent, grandparent, child by birth, wife or widow of a son, husband or widower of a daughter, child by legal adoption, stepchild, or the lineal descendent of the decedent or the stepchild, does not exceed \$25,000 and there is no real property passing to any of the above-described persons.

3. The value of the gross estate passing to a brother, sister, aunt, uncle, great aunt or uncle, great great aunt or uncle, niece, nephew, grand niece or nephew, great grand niece or nephew, first cousin, or a first cousin once removed does not exceed \$5,000 and there is no real property passing to any of the above described persons. Relatives of the decedent's husband or wife are not one of the above described persons.

4. The value of the gross estate passing to any other person does not exceed \$1,000 and there is no real estate.

Where real property passes to a surviving spouse, describe each parcel of real estate in enough detail that it can be easily identified. Include street address, development, tax parcel number and deed record number and, for rural parcels, the acreage, hundred, road name and number, tax parcel number and deed record number.

A COPY OF THIS FORM IS TO BE FILED WITH THE DIVISION OF REVENUE.

IF YOU HAVE ANY QUESTIONS REGARDING THESE INSTRUCTIONS,
PLEASE CALL 571-3344